

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ROBERT HALL,

Plaintiff,

v.

J. W. FAIRMAN, et al.,

Defendants.

CASE NO. 1:99-CV-05780-AWI-SMS-P

ORDER DISMISSING ACTION WITHOUT  
PREJUDICE FOR FAILURE TO EXHAUST,  
AND DIRECTING CLERK OF COURT TO  
ENTER JUDGMENT FOR DEFENDANTS  
AND AGAINST PLAINTIFF

(Doc. 113)

Plaintiff Robert Hall ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On April 7, 2003, the Court denied Defendants' motion to dismiss this action for failure to exhaust the available administrative remedies. Fed. R. Civ. P. 12(b). On May 19, 2003, the Court granted Defendants' request for appeal certification and certified this matter for interlocutory appeal. The United States Court of Appeals for the Ninth Circuit granted the petition for appeal and in an opinion issued on September 6, 2005, held that Plaintiff did not exhaust the available administrative remedies and reversed the order of this Court.

Pursuant to the Ninth Circuit's decision in Brown v. Valoff, 422 F.3d 926 (9th Cir. 2005) and 42 U.S.C. § 1997e(a), this action is HEREBY DISMISSED, without prejudice, based on Plaintiff's

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1 failure to exhaust the available administrative remedies prior to filing suit. The Clerk of the Court  
2 is HEREBY DIRECTED to enter judgment for Defendants and against Plaintiff.

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4 IT IS SO ORDERED.

5 **Dated: March 3, 2006**  
6 Om8i78

**/s/ Anthony W. Ishii**  
UNITED STATES DISTRICT JUDGE